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OFFICE OF PETITIONS

In re Application of :
Steve West, et al. :
Application No. 09/872,125 : **DECISION GRANTING PETITION**
Filed: May 31, 2001 : **UNDER 37 CFR 1.137(b)**
Attorney Docket No. 5043P013 :

This is a decision on the petition, filed May 27, 2003, under 37 CFR 1.137(f), which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application.

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in a foreign country on May 22, 2002. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(b) to revive for failure to timely notify the Office of the filing of an application in a foreign country must be accompanied by:

- (1) the required reply, which is met by the notification of such filing in a foreign country or under a multinational treaty;
- (2) the petition fee as set forth in 37 CFR 1.17(m); and
- (3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded.

Telephone inquiries concerning this decision should be directed to Cheryl Gibson-Baylor at (703)308-5111, or in her absence, Frances Hicks at (703)305-8680.

This application is being forwarded to Technology Center 2600, Art Unit 2666, for appropriate action on the reply to the non-final Office action on March 13, 2003, received April 21, 2003



Cheryl Gibson-Baylor
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy



Frances Hicks
Petitions Examiner